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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Rulemaking to Amend Parts 1, 2, 21, and 25)	CC Docket No. 92-297
of the Commission's Rules to Redesignate)	
the 27.5-29.5 GHz Frequency Band, to)	
Reallocate the 29.5-30.0 GHz Frequency)	
Band, to Establish Rules and Policies for)	
Local Multipoint Distribution Service and)	
for Fixed Satellite Services)	
)	
and)	
)	
Suite 12 Group Petition for Pioneer's)	PP-22
Preference)	

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COMMENTS OF ORION NETWORK SYSTEMS, INC.

Orion Network Systems, Inc., ("Orion"), by its undersigned counsel, hereby responds to the Commission's Third Notice of Proposed Rulemaking and Supplemental Tentative Decision in the above-referenced proceeding, FCC 95-287, adopted July 13, 1995, and released July 28, 1995, (hereafter "Third Notice"). In support, the following is shown:

Orion is the parent corporation of Orion Satellite Corporation, the general partner of International Private Satellite Partners, L.P., (hereafter "Orion Atlantic"), which is the licensee of an international communications satellite system currently operating a Ku Band satellite located at 37.5°W.L.

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Orion intends to file applications for additional authority to use the Ka Band for geostationary fixed satellite services (GSO/FSS). In light of its interest as a prospective applicant, Orion wishes to comment on the following two aspects of the Commission's Third Notice of Proposed Rulemaking: (1) the proposed band segmentation plan; and (2) the potential use of competitive bidding procedures as a method for selecting licensees in the event of mutually exclusive applications.

**The Proposed Band Segmentation Plan Should
Include at Least 1,000 MHz for GSO/FSS**

Of the 2,500 MHz between 27.5-30.0 GHz band, which is being segmented to avoid interference between various incompatible services, the Commission has proposed to designate 1,000 MHz of spectrum for the GSO/FSS systems.^{1/} Of this, 750 MHz will be afforded primary status: 250 MHz at 28.35-28.60 GHz, and 500 MHz at 29.5-30.0 GHz. The remaining 250 MHz will be shared on a co-primary basis with MSS feeder links in the 29.25-29.5 GHz Band.^{2/}

Orion supports the Commission's determination that at least 1,000 MHz of spectrum is needed to support multiple Ka Band GSO/FSS systems. Given the intense utilization of C and Ku Band satellites and the increasing scarcity of additional orbital locations for satellites operating in those bands, the Ka Band is the logical and necessary expansion band for future GSO/FSS systems. Services that have already

^{1/} Third NPRM at paras. 54-55.

^{2/} Id. at para. 54.

been proposed for Ka Band GSO/FSS systems include video telephony and video conferencing, medical and technical tele-imaging, computer aided design and manufacturing information, image transmission, two-way direct-to-home (DTH) and other advanced V-SAT services for commercial and residential users.^{3/} In light of the extensive broadband applications that already have been proposed, Orion believes that an allocation of at least 1,000 MHz is essential for GSO/FSS systems.

**Competitive Bidding For Satellite
Licenses Would Not Be In The Public Interest**

Orion is a member of the Satellite Industry Association ("SIA"), an association formed to represent U.S. satellite manufacturers, operators, launch companies and service providers, and supports with the comments filed by SIA in this proceeding. The use of auctions to award satellite licenses is not sound policy, and Orion hereby incorporates by reference the SIA's comments in support of that position. In addition, Orion wishes to reiterate and reinforce four points regarding the proposed use of competitive bidding procedures for issuing Ka Band satellite licenses.

First, it is premature to consider the use of auctions for licensing Ka Band satellite spectrum because there is no indication that applications will be mutually exclusive. Section 309(j) of the Communications Act authorizes the Commission to issue licenses by competitive bidding only when there is mutual exclusivity among applicants which cannot be resolved by other means. In this regard, the statute

^{3/} Id. at paras. 21-22.

encourages the Commission to resort first to other methods for resolving mutual exclusivity, including technical and engineering methods, and to use the auction procedure only as a last resort. The Commission should wait until all applications have been filed for proposed Ka Band systems -- whether for full or partial CONUS coverage (for domestic or international service, or both) -- before any determination is made regarding the appropriateness of auctions for this spectrum.

Second, given the inherently international nature of satellite service, the use of auctions, even in a situation of genuine mutual exclusivity, would have an adverse impact on and would be disruptive to the U.S. satellite industry. Satellite footprints encompass extremely large areas of the globe, overlapping national boundaries. Often the continental-U.S. portion of the footprint comprises only a portion of the total service capability of a system.^{4/} Accordingly, a license from the Commission usually is one of several authorizations required by a U.S. satellite system operator -- such systems require authorizations from foreign jurisdictions, as well. If the Commission uses the auction procedure for awarding U.S. licenses, the likely consequence will be to encourage other nations to do likewise with respect to uplink and/or downlink authorizations in their territory. If a satellite system operator were the successful bidder in a U.S. auction only to be outbid for Ka Band authority in other jurisdictions,

^{4/} The Commission recognized the inherently international nature of satellite services, even systems providing U.S. domestic service, in its Notice of Proposed Rulemaking in IB Docket No. 95-41, amendment to Commission's regulatory policies governing domestic fixed satellites and separate international systems, FCC 95-146, released April 25, 1995.

the result would severely hamper the ability of U.S. Ka Band system operators to provide international service.

Third, requiring U.S. Ka Band system operators to bid for spectrum would impede U.S. competitiveness in the global market for satellite services. If U.S. companies are required to pay for spectrum in auctions but competing operators from foreign countries are not, systems from other nations will have a distinct pricing advantage over U.S. companies by virtue of their lower cost structure.


The fourth reason why spectrum auctions are unsound policy for Ka Band satellite services is that the satellite industry is already burdened with great uncertainty and financial risks. The substantial capital investment required, the extended lead times necessary for construction, the requirements for complex and varied international approvals, the prospect of launch failure and the limited lifetime of satellites, all make the satellite business a risky and demanding undertaking. Requiring U.S. satellite operators to bid in auctions for satellite spectrum will only serve to add to the complexity and risk, and could well impede satellite operators from raising the capital necessary to launch and operate a global satellite system.

CONCLUSION

For the foregoing reasons, Orion respectfully recommends that the Commission allocate at least 1,000 MHz of bandwidth for GSO/FSS systems and abandon the proposal to issue Ka Band satellite licensees by means of auctions.

Respectfully submitted,

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